

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

<b>JACOB RAY RIVERA,</b>	:	
<b>Plaintiff</b>	:	<b>CIVIL ACTION NO. 3:13-1399</b>
<b>v.</b>	:	<b>(JUDGE MANNION)</b>
<b>PA DIEBERT, <u>et al.</u>,</b>	:	
<b>Defendant</b>	:	

**MEMORANDUM**

Pending before the court is the report of Magistrate Judge Susan E. Schwab, which recommends that defendant Diebert's motion to dismiss the plaintiff's complaint, (Doc. 36), be granted, in part, and denied, in part. Judge Schwab further recommends that the Corrections Defendants' motion to dismiss the plaintiff's complaint, (Doc. 29), be granted, and that the plaintiff be granted leave to file an amended complaint. As of this date, no objections have been filed to Judge Schwab's report.

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." [Fed.R.Civ.P. 72\(b\)](#), advisory committee notes; see also [Univac Dental Co. v. Dentsply Intern., Inc.](#), 702 F.Supp.2d 465, 469 (2010) (citing [Henderson v. Carlson](#), 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every Report and Recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept or modify, in whole or in part, the findings or recommendations made by the

magistrate judge. [28 U.S.C. §636\(b\)\(1\)](#); Local Rule 72.31.

The court has reviewed the reasons presented by Judge Schwab for her recommendations. Because the court agrees with the sound reasoning that led Judge Schwab to the conclusions in her report and finds no clear error on the face of the record, the court will adopt the report in its entirety. An appropriate order shall issue.

s/ *Malachy E. Mannion*  
**MALACHY E. MANNION**  
United States District Judge

**Date: September 12, 2016**

O:\Mannion\shared\MEMORANDA - DJ\CIVIL MEMORANDA\2013 MEMORANDA\13-1399-01.wpd